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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,888	12/30/1999	TOSHIYUKI FUTAKATA	6342-0039-2	3055
22850	7590	11/16/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			KUMAR, PANKAJ	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	
			2631	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/446,888

Applicant(s)

FUTAKATA ET AL.

Examiner

Pankaj Kumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 9/1/2005 have been fully considered but they are not persuasive.
2. The Nakano reference shows in fig. 1 that code 1 is assigned to a sector; hence this teaches applicant's claim of assigning a code. The Nakano reference also shows in fig. 1 that code 1 emanates from a base station which is connected or associated with a network whose type is a communication network; hence this teaches applicant's claim of code associated with each network type. The Nakano reference also teaches in fig. 1 that two base stations are part of a group that belongs to a communication network through the connections between the base stations and the network; hence this teaches applicant's claim of network type to which said base station group belongs. Applicant argues that Nakano does not teach a code associated with each network type to which said base station belongs since Nakano only discloses a code assigned to each mobile station. This is not persuasive. Although one code is assigned to a mobile station, another code is assigned to a sector through a base station which is associated with a communication network. Nakano teaches at least in the abstract "code assigned to the base station is transmitted from each one of at least two sectors of the base station" and Nakano teaches in col. 1 line 10: "base stations connected to a communication network". This code assigned to the base station is the code that the network administrator of the base station assigned to it. For example, a cellular company's network has base stations and any base station code is controlled by the network and hence is associated with the network. Hence, Nakano teaches code (Nakano abstract: code) associated with each network type (Nakano fig. 1: each base

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station is part of a cellular network and hence is part of a network type; abstract: "code assigned to the base station"; There is a code assigned to the base station and hence this code is associated with the network type.) to which said base station belongs (Nakano fig. 1: each base station is part of a cellular network and hence is part of a network type).

3. Applicant argues that Higuchi does not teach that the second spreading code (long code) functions as an identifier of a base station group or a network type since each base station has a different long code in Higuchi. This is not persuasive. Higuchi teaches in col. 4 lines 5-10 that the first spreading code (short code) is common between the base stations and the second spreading code (long code) is different between the base stations. Thus, even though each base station has a different second spreading code, Higuchi teaches in col. 4 lines 6-7 that the first spreading code group is common to respective base stations. The spreading code group refers to a group of individual spreading codes. Accordingly, because the code is common between the group of base stations, the code effectively functions as an identifier of the group of base stations.

### ***Response to Amendment***

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakano USPN 6,011,787 in view of Higuchi USPN 6,167,037. See prior action for details.

***Allowable Subject Matter***

6. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pankaj Kumar whose telephone number is (571) 272-3011. The examiner can normally be reached on Mon, Tues, Thurs and Fri after 8AM to after 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad H. Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pankaj Kumar  
Patent Examiner  
Art Unit 2631

PK

  
MOHAMMED GHAYOUR  
SUPERVISORY PATENT EXAMINER